UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/CN.9/SR.578
9 November 1995

ORIGINAL: ENGLISH

UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW

Twenty-eighth session

SUMMARY RECORD (PARTIAL)* OF THE 578th MEETING

Held at the Vienna International Centre, Vienna,
on Tuesday, 23 May 1995, at 2 p.m.

CHAIRMAN: Mr. GOH (Singapore)

CONTENTS

Electronic data interchange: draft Model Law (*continued*)

Report of the drafting group

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of distribution of this document* to the Secretary of the Commission, room E0455, Vienna International Centre.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

V.95 59158 (E) (a:\1995\uncitral 2)

Distr.: 27 November 1995

The meeting was called to order at 2.15 p.m.

The discussion covered in the summary record began at 4.50 p.m.

ELECTRONIC DATA INTERCHANGE: DRAFT MODEL LAW (*continued*)

Report of the drafting group (A/CN.9/XXVIII/CRP.5 and Add.2)

1. **The CHAIRMAN** said that he would invite Ms. Clift (Australia) to introduce the report.

2. **Ms. CLIFT** (Australia) said that, in document A/CN.9/XXVIII/CRP.5, the change made to article 1 reflected the Commission's decision to have a more general provision covering sphere of application, with a footnote. Two alternative texts were suggested in the footnote, because the drafting group had found it difficult to decide whether a limiting phrase or a more inclusive phrase was needed. The only change made to article 3 had been to replace "source" by "origin", which seemed better in most languages. No change had been made to articles 4, 5 or 6. In article 7, paragraph (1), the words "or retained" had been added after "presented", and the order of the two subparagraphs had been reversed. Subparagraph (a) now only required assurance as to the integrity of the information from the time of generation. In subparagraph (b) the words "where it is required that information be presented" had been added at the beginning of the sentence, and the words "capable of being" added before "displayed". In paragraph (2) (b) the word "composed" had been replaced by "generated". In the title of article 8, the word "value" had been replaced by "weight". Paragraph (3) of the article had been deleted. The *chapeau* of paragraph (1) now referred to the "admissibility" of a data message, and in subparagraph (a) the word "sole" had been inserted before "ground".

3. The redrafted versions of articles 9, 10 and 11 were contained in document A/CN.9/XXVIII/CRP.5/Add.2 (which superseded A/CN.9/XXVIII/CRP.5/Add.1). Changes had been underlined. Paragraph (1) of article 9 had been changed in order to align the text with previous articles, and the other changes in articles 9 and 10 reflected decisions of the Commission. She wished to suggest in addition that, in paragraph (2) of article 9, the words "retain information" should be replaced by "retain documents, records or information", in line with the wording used at the beginning of the article. Changes made to article 11 reflected the Commission's decision to adopt the substance of the proposal put forward by Australia, the United Kingdom and the United States of America (A/CN.9/XXVIII/CRP.7), as amended. In paragraphs (4) (b), (5) and (6), the drafting group had preferred the phrase "knew or should have known" to "knows or would know", and in paragraph (4) (a) the words "notice within a reasonable time" had been substituted for "reasonable notice".

4. **Mr. ABASCAL ZAMORA** (Mexico) said he had no objection to the report, but pointed out that those representatives who were experts on electronic data interchange and who had taken part in discussions on the text were no longer present. When those representatives came to read the report, they might not find the proposed text acceptable: some, for instance, had objected to the word "activities" that now appeared in article 1. He was not sure whether it was right for representatives who had not participated in the original discussions to take the final decision on the text, and therefore proposed that the Commission should simply take note of the report, and that its adoption should be deferred to the Commission's next session.

5. **The CHAIRMAN** said that, at the Commission's next session in New York, the same experts would not necessarily be attending as members of the delegations of their respective countries. The Commission could, of course, decide at that session to make further changes to the text, but he urged that the drafting group's report should be adopted at the current session so as to set out what had been accomplished.

6. **Mr. BURMAN** (United States of America) said that in general the drafting group had done good work in reflecting the Commission's decisions. Before the report was adopted, however, he would suggest that the wording proposed for article 10 (2) be reconsidered. The point was that parties might have rights under other law to modify certain aspects of chapter II, not that parties had the right to modify a rule of law. It might be preferable to substitute the word "matters" for "rule of law".

The meeting rose at 5.05 p.m.